

Message Text

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USOECD

FOR UNDER SECRETARY COOPER

E.O. 11652: N/A
TAGS: OECD, EGEN, ETRD
SUBJECT: APRIL 13 MEETING OF BUREAU OF EXECUTIVE
COMMITTEE IN SPECIAL SESSION (XCSS): PAPER ON SPECIAL
AND DIFFERENTIAL TREATMENT OF THE LDC'S

MISSION HAS RECEIVED A NOTE DATED APRIL 10 FROM GERMAN
PERMREP EMMEL. NOTE STATES THAT FRAU STEEG HAD BEEN
ASKED TO PREPARE THE ATTACHED PAPER AND ASK THAT IT
BE GIVEN TO "THE RESPONSIBLE MEMBER OF THE INFORMAL
PREPARATORY MEETING OF THE XCSS, ON THURSDAY
13TH APRIL, 1978." TEXT OF ENCLOSURE FOLLOWS.

BEGIN TEXT:

SPECIAL AND DIFFERENTIAL TREATMENT OF THE DEVELOPING
COUNTRIES WITHIN THE FRAMEWORK OF THE GATT NEGOTIATIONS

I. THE TOKYO DECLARATION CONTAINS THE FOLLOWING
PRINCIPLES AS THE ESSENTIAL LEADING CONCEPT IN THE
AREA OF SPECIAL AND DIFFERENTIAL TREATMENT OF THE
DEVELOPING COUNTRIES:

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- ACCEPTANCE OF THE IMPORTANCE TO MAINTAIN AND
IMPROVE THE GENERALIZED SCHEME OF PREFERENCES:

- READINESS TO ACCORD SPECIAL AND DIFFERENTIAL
TREATMENT TO THE DEVELOPING COUNTRIES IN THOSE AREAS
OF NEGOTIATION IN WHICH SUCH TREATMENT IS FEASIBLE AND

APPROPRIATE.

- SPECIAL AND DIFFERENTIAL TREATMENT OF THE
LEAST DEVELOPED AMONG THE DEVELOPING NATIONS WITHIN
THE FRAMEWORK OF GENERALIZED AND SPECIAL MEASURES
IN FAVOUR OF THE DEVELOPING COUNTRIES.

THE DEVELOPING NATIONS' DEMANDS ARE AIMED AT:

- MATERIAL PREFERENTIAL TREATMENT IN ALL
AREAS OF NEGOTIATION,
- A FORMAL REVISION OF THE GATT DESIGNED TO
TAKE THEIR INTERESTS INTO CONSIDERATION IN A MORE
APPROPRIATE WAY.

IN THE FIELD OF SPECIAL AND DIFFERENTIAL TREATMENT
OF THE DEVELOPING COUNTRIES IN THE -- NON-TARIFF
AREA-- THE GATT NEGOTIATIONS TREAD ON UNEXPLORED GROUND.
OPERATIVE RESULTS RELATING TO THE CONCEPTUAL QUESTIONS, WH
WHICH HAVE THUS BEEN RAISED, ARE NOT YET AVAILABLE.
THE SOLUTIONS REACHED IN FAVOUR OF THE DEVELOPING
COUNTRIES FOR TROPICAL PRODUCTS ARE IN ESSENCE
CONFINED TO ADDITIONAL TARIFF CONCESSIONS FOR
THESE PRODUCTS, WHICH ARE OF SPECIAL INTEREST TO
THEM; THEY ARE THUS CONFINED TO AN AREA IN WHICH
THE CREATION OF THE GENERALIZED SCHEME OF PREFERENCE
HAS ALREADY CAUSED A DEVIATION FROM THE FUNDAMENTAL
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GATT PRINCIPLE OF MOST-FAVOURED-NATION TREATMENT.

1. ON VARIOUS OCCASIONS - THE LATEST WAS ITS 50TH
SESSION IN OCTOBER 1977 - THE OECD TRADE COMMITTEE
DEALT WITH THE ENTIRE AREA OF SPECIAL AND DIFFERENTIAL
TREATMENT OF THE DEVELOPING COUNTRIES IN THE NON-TARIFF
FIELD. IN THE COURSE OF THESE DISCUSSIONS THE FOLLOW-
ING COMPLEXES OF QUESTIONS HAVE EMERGED:

- ACTUAL EXTENT TO WHICH SPECIAL SOLUTIONS MAY
BE REACHED IN FAVOUR OF THE DEVELOPING NATIONS IN THE
INDIVIDUAL GROUPS OF NEGOTIATION (MORE PRECISELY:
WHERE IS SPECIAL AND DIFFERENTIAL TREATMENT POSSIBLE
AND APPROPRIATE IN COMPLIANCE WITH THE TOKYO DECLARA-

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TION?),

- PROBLEM INVOLVED IN ANY GRADUATION OF SPECIAL
AND DIFFERENTIAL TREATMENT AND QUESTION REGARDING
APPROPRIATE CRITERIA FOR SUCH A GRADUATION (COUNTRY
OR PRODUCT APPROACH. TYING TO GENERAL ECONOMIC
DATA OR MORE STRONGLY TRADE-ORIENTED CRITERIA),

- NATURE AND EXTENT OF RECIPROCITY TO BE
ACCEPTED BY THE DEVELOPING COUNTRIES,

- CONSIDERATIONS PERTAINING TO THE LEGAL BASIS
OF ANY SPECIAL AND DIFFERENTIAL TREATMENT OF THE
DEVELOPING COUNTRIES, ESPECIALLY THE QUESTIONS
WHETHER SUCH SPECIAL AND DIFFERENTIAL TREATMENT
SHOULD BE ACCORDED AUTONOMOUSLY OR WHETHER IT SHOULD
BE LAID DOWN IN THE GATT OR THE CODECES TO BE
INDIVIDUALLY NEGOTIATED IN THE MTN AREA.

TAKING INTO CONSIDERATION THE PROGRESS OF THE GENEVA
NEGOTIATIONS, WHICH IS STILL NOT VERY CONCRETE IN THIS
AREA, THE TRADE COMMITTEE HAS NOT YET COMPLEXES OF(SIC)
QUESTIONS, WHICH HAVE EMERGED IN THE COURSE OF ITS
DELIBERATIONS, TOGETHER WITH THE CONCEIVABLE APPROACHES T
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THEN DISCUSSED WOULD IN MY VIEW SEEM TO REPRESENT AN
OBJECTIVE BASIS ON WHICH TO CONDUCT THE DISCUSSION
ON THIS SUBJECT, WHICH IS NOT ONLY ECONIMICALLY
RELEVANT, BUT ALSO POLITICALLY IMPORTANT IN THE
OVERALL CONTEXT OF THE NORTH-SOUTH DIALOGUE.

III. AGAINST THIS BACKGROUND IT WILL BE IMPORTANT FOR THE INDUSTRIALIZED COUNTRIES IN THE GATT NEGOTIATIONS TO ELABORATE AND SHOW IN PRACTICE POLITICALLY AND ECONOMICALLY DEFENDABLE REACTIONS TO THE FAR-REACHING DEMANDS OF THE DEVELOPING COUNTRIES FOR SPECIAL AND DIFFERENTIAL TREATMENT IN THE FIELD OF TRADE POLICY. THIS RAISES THE FOLLOWING QUESTIONS:

1. IDENTIFICATION OF REAL POSSIBILITIES TO ACCORD MATERIAL SPECIAL AND DIFFERENTIAL TREATMENT IN THE INDIVIDUAL GROUPS TO BE NEGOTIATED:

- WOULD IT BE OBJECTIVE AND REALISTIC IN VIEW OF THE CONCRETE DEMANDS OF THE DEVELOPING COUNTRIES TO ESTABLISH BY STATUTE ONLY THE PRINCIPLE OF SPECIAL AND DIFFERENTIAL TREATMENT, OR HAS THE TIME NOT RATHER COME IN THE LIGHT OF THE PRESENT STAGE OF THE NEGOTIATIONS TO SPECIFY IN MORE CONCRETE TERMS THE EXTENT OF SPECIAL AND DIFFERENTIAL TREATMENT WHICH WOULD ECONOMICALLY AND POLITICALLY BE DESIRABLE IN THE INDIVIDUAL AREAS OF NEGOTIATION?

- ARE THE OBSERVATIONS CORRECT, WHICH HAVE BEEN MADE IN THE DELIBERATIONS SO FAR, THAT DECISIONS ON THE CONCRETE EXTENT OF SUCH SPECIAL AND DIFFERENTIAL TREATMENT CANNOT BE TAKEN GENERALLY TO INCLUDE ALL AREAS OF NEGOTIATION, BUT ONLY ON A CASE-BY-CASE BASIS - IN CORRELATION WHICH THE SOLUTIONS WHICH SEEM TO BE LIMITED OFFICIAL USE

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MATERIALIZING ON A MOST-FAVORED NATION BASIS?

- WHAT AREAS WOULD QUALIFY FOR ANY SUCH SPECIAL AND DIFFERENTIAL TREATMENT IN ADDITION TO SUBSIDIES/COUNTERVAILING DUTIES, SAFEGUARDS, GOVERNMENT PURCHASING AS MENTIONED IN THE CIEC FINAL DECLARATION?

- ARE THERE AREAS IN WHICH THE NATURE OF THE MEASURE OR THE DESIRED AIMS ARE STANDING IN THE WAY TOWARDS ANY SPECIAL AND DIFFERENTIAL TREATMENT OF THE DEVELOPING COUNTRIES (E.G. IN AREAS WHICH ARE PRIMARILY ADMINISTERED ONES (CUSTOMS VALUATION, STANDARDS).

2. WHAT COULD BE THE LEGAL FRAMEWORK OF SPECIAL AND DIFFERENTIAL TREATMENT OF DEVELOPING COUNTRIES?

- SHOULD EFFORTS BE MADE TO ENCOURAGE IN THE LONG TERM A RETURN ALSO OF DEVELOPING COUNTRIES TO UNIFORMLY APPLICABLE RULES OF WORLD TRADE? IN WHAT WAY COULD SUCH

A CONCEPT BE REALIZED? WHAT MIGHT BE THE PROPER TIMING
FOR SUCH A PERIOD OF ADAPTATION AND ITS INDIVIDUAL STEPS?

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- IN WHAT WAY COULD IT BE ENSURED THAT THE PRACTICAL
IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT OF
THE DEVELOPING NATIONS WOULD HAVE "POSITIVE" TRADE
EFFECTS AND WOULD NOT IMPEDE TRADE OF OTHER COUNTRIES?

- SHOULD THIS NEW CONCEPT OF SPECIAL AND DIFFERENTIAL
TREATMENT BE INCORPORATED IN THE GATT? IF SO HOW?

. A GENERAL ENABLING CLAUSE ADDED TO PART IV OF GATT?

. SPECIAL AND DIFFERENTIAL CLAUSES ADDED TO THE
RELEVANT GATT ARTICLES?

. A DECLARATION BY DEVELOPED COUNTRIES PARTICIPATING
IN THE MTN, ADDED TO THE NEGOTIATIONS
PROTOCOL?

- SHOULD THERE BE CRITERIA AND PROCEDURE FOR PERIODIC
REVIEWS IN GATT OF THE NEED FOR SPECIAL AND DIFFERENTIAL
TREATMENT?

- IN WHAT WAY WOULD IT BE POSSIBLE TO INCLUDE INTO THE
NEGOTIATIONS THE ASPECT OF RECIPROCITY ON THE SIDE OF
THE DEVELOPING NATIONS?

- IS IT USEFUL TO GO BEYOND THE PRESENT FORMULA IN
PART IV OF GATT? (FOR MAINTAINING THE PRESENT WORDING:
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IT IS IMPOSSIBLE TO OBTAIN A SATISFACTORY FORMULATION COVERING COUNTRIES WITH A WIDE RANGE OF DEVELOPMENT LEVELS AND RECIPROCITY POSSIBILITIES. IN FAVOR OF A MORE PRECISE FORMULATION: CONVINCE CERTAIN LDC'S OF DISCARDING A RIGIDLY NEGATIVE ATTITUDE TO RECIPROCITY).

- WOULD IT BE USEFUL IN THIS REGARD TO LIST THE KIND OF MEASURES THROUGH WHICH LDC'S COULD EXTEND RECIPROCITY AT LESSER LEVEL? I.E. PARTICIPATIONS (EVEN WITH SPECIAL CONDITIONS) IN INTERNATIONAL AGREEMENTS, NOTIFICATION OF TRADE MEASURES, ACCEPTANCE OF MULTI-LATERAL CONSULTATIONS.

- SHOULD NEW CRITERIA AND PROCEDURES BE DEVELOPED IN THE GATT TO EVALUATE THE RECIPROCITY BETWEEN DC'S AND LDC'S? I.E. TAKING INTO ACCOUNT "RELATIVE" RECIPROCITY RATHER THAN A SIMPLE COMPARISON OF CONCESSIONS?

4. WHAT FUNCTION SHOULD BE ATTRIBUTED TO THE CONCEPT OF GRADUATION WITHIN THE FRAMEWORK OF SPECIAL AND DIFFERENTIAL TREATMENT OF THE DEVELOPING COUNTRIES? SHOULD IT BE ENVISAGED TO LINK BOTH AREAS TOGETHER IN ANY CASE AND IF SO, IN WHAT WAY?

- SHOULD THE GRADUATION BE CONFINED TO THE POSITIVE ASPECTS OF CONCEDING SPECIAL ADVANTAGES TO THE LEAST DEVELOPED AMONG THE DEVELOPING COUNTRIES OR SHOULD IT NEGATIVELY ALSO INCLUDE LESSER ADVANTAGES AND STRONGER OBLIGATIONS OF THE MORE ADVANCED LESS DEVELOPED COUNTRIES TO EXTEND RECIPROCITY?

ARGUMENT A: A GRADUATION WOULD BE APPROPRIATE IN TRADE AND DEVELOPMENT POLICY, SINCE IT WOULD BE THE LOGICAL
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CONSEQUENCE OF THE DIRECTION AT WHICH THE EFFORTS WOULD BE AIMED TO OFFSET ACTUALLY EXISTING ECONOMIC IMBALANCES BY CONCEDING SPECIAL ADVANTAGES TO THE DEVELOPING NATIONS.

ARGUMENT B: THE CONCEPT OF GRADUATION WOULD NOT BE WITHOUT RISKS: DIFFICULTY OF IDENTIFYING CRITERIA FOR THE GRADUATION WHICH ARE OBJECTIVE AND VERY CLOSE TO PRACTICAL REQUIREMENTS AT THE SAME TIME; RISK THAT NOT SO MUCH THE DEVELOPMENT POLICY OBJECTIVES, BUT DOMESTIC

ECONOMIC INTERESTS OF PROTECTION WOULD OCCUPY THE FOREGROUND; POSSIBILITY OF POLITICAL FRICTIONS AS A RESULT OF NEGATIVE REACTIONS BE THE DEVELOPING COUNTRIES TO ATTEMPTS TO SPLIT THEM UP BY GROUPS.

- WOULD A SELECTIVE EXTENSION OF SPECIAL AND DIFFERENTIAL TREATMENT BE RECOMMENDABLE AS A BASIC APPROACH TOWARDS A GRADUATION?

. EITHER BY COUNTRY: POLITICAL PROBLEMS OF DRAWING A LIST OF COUNTRIES BEYOND THE INTERNATIONALLY ACCEPTED CATEGORY OF LDC'S,

. OR BY PRODUCTS: HAS A PRIORI ADVANTAGES: MORE FLEXIBLE, POLITICALLY MORE ACCEPTABLE, BUT DANGER OF EXCESSIVE FOCUS ON A FEW "SENSITIVE AREAS",

. OR PERHAPS A COMBINATION OF BOTH: ADVANTAGES:

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LARGEST SCOPE FOR FLEXIBILITY BUT DANGER OF AN EXCESSIVELY DISAGGREGATED TREATMENT THAT WOULD ESCAPE ANY PRINCIPLES OR STANDARD CONDITIONS.

- SHOULD SUCH SELECTIVE EXTENSION OF SPECIAL AND DIFFERENTIAL TREATMENT BE COMBINED WITH THE "PHASING-IN" OF FURTHER ADVANCED LESS DEVELOPED COUNTRIES? WHAT FORMS COULD THIS "PHASING-IN" TAKE?

. "TRANSPARENCY OF TRADE POLICIES AND MEASURES",
I.E. FULL PARTICIPATION IN NOTIFICATION AND CONSULTATION PROCEDURES. EVEN IF UNDER NO OBLIGATIONS TO RESPECT CERTAIN GATT RULES, TRADE MEASURES BETWEEN

LDC'S SHOULD ALSO BE NOTIFIED,
. PROGRESSIVE ACCEPTANCE BY DEVELOPING COUNTRIES OF
THE GATT RULES. IN WHAT AREAS SHOULD THIS OPERATION
BEGIN? PERHAPS WITH MEASURES WITH A LESSER ECONOMIC
IMPACT, I.E. IMPORT REGULATIONS AND PROCEDURES. IN
AREAS OF GREATER ECONOMIC IMPORTANCE - QUOTAS AND
SUBSIDIES I.E. - COULD FLEXIBLE PHASING-IN BE CON-
CEIVED, I.E. THE POSSIBILITY OF TEMPORARY EXCEPTIONS
OR SET BACKS IN CASE OF NEED?

- WHAT KIND OF PRESSURE COULD BE PUT BY DEVELOPED
COUNTRIES ON THE DEVELOPING COUNTRIES WHICH ARE IN A
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POSITION TO ACCEPT SOME DEGREE "PHASING-IN"? CONDI-
TIONAL RECIPROCITY? TOKYO ROUND CONCESSIONS LIMITED
IN TIME AND CONFIRMED IF LDC'S TAKE CERTAIN OFFERED
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TAGS: EGEN, ETRD, OECD
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